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EXAMINER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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## **DETAILED ACTION**

### **Acknowledgments**

1. Applicant's amendment filed on April 28, 2008 is acknowledged. Accordingly claims 1-14, 16-17, 19-24, 26-27, 29-82 and 84-90 remain pending.

### **Response to Arguments**

1. Applicant's arguments filed April 28, 2008 have been fully considered but they are not persuasive.
2. With respect to **claims 1, 11, 31, 41, 49, and 59**, Applicant argues that Rosenberg teaches adjusting a number of exposures of advertising based on reflected interest of viewers in that advertising message but does not teach or suggest adjusting inventory based on predefined price levels of different impressions or comparisons between impression to determine the competitiveness with respect to one another, let alone modifying at least one entry in the results to reflect a more competitive price or position when compared to another entry in the results comprises increasing availability of the entry at a predefined price level at the more competitive price, as recited by independent Claims 1, 11, 31, 41, 49, and 59.
3. In response, Examiner respectfully disagrees with Applicant's characterization and submits that Rosenberg does disclose the method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price as shown in the rejection. For example Rosenberg discloses that increasing supply of the commodity means that the price of that commodity will continue to

decrease. Generally, speaking an increase in the availability of an item tend to bring the product at a more competitive price. Furthermore in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Rosenberg need not disclose modifying at least one entry in the results to reflect a more competitive price or position when compared to another entry in the results because Goodwin does disclose this feature as shown in the rejection. Accordingly the combination of Goodwin and Rosenberg does disclose the claimed invention.

4. With respect to dependent claims Applicant argues that the dependent claims are allowable by virtue of their dependencies from their respective independent claims.

5. In response, Examiner respectfully disagrees and submit that the dependent claims are not patentable either being dependent from their respective independent claims or on their own merits.

6. With respect to **claims 21 and 74**, including the claims dependent there from Applicant's arguments with respect to claims 21 and 74 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-7, 8-14, 16-17, 19, 31-37, 38-73, and 90**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin III et al European Patent Application Publication No. EP 0 973 112 A2 in view of either Rosenberg U.S. Patent Application No. 2002/0184088 A1 or Eglen et al U.S. Patent Application Publication No. 2007/0250400 A1.

9. As per **claims 1, 11, 31, and 59**, Goodwin et al discloses a method for providing price information for an item capable of being sold at a plurality of different predefined price levels that each have a respective availability associated therewith, comprising the steps of:

receiving a request for price information associated with at least one item (figs. 4 and 5; ...obtains competitive price data...);

obtaining database results from a database responsive to the request (0034; 0044; ...reads the price of the item from competitive price data file...);

modifying at least one entry in the database results to reflect a more competitive price when compared to another entry in the database results (see figs. 4 and 5; 0032; ...control software determines whether the PLU price should be adjusted for the item...)

comprising increasing availability of the at least one entry at a predefined price level having the more competitive price and

providing the database results to a consumer after completing the modifying step (figs. 4 and 5; 0032; 0044).

10. What Goodwin does not explicitly disclose is increasing availability of the at least one item entry at a predefined price level having the more competitive price. Goodwin however discloses that the price adjustment is based on predetermined rules and/or competitive market conditions.

11. Rosenberg et al discloses a method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price (0007, which discloses that an ever increasing supply of the commodity means that the price of that commodity will continue to decrease...). Alternatively Eglen et al discloses a method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price (0134, which discloses that the file servers 210 call increment demand servlet 3044 to increase the quantity demand for an item in the media cache 3016; 0107, which discloses that the dynamic price modifier is some measure of change in demand for one or more item being priced, ... generally the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases...)

12. Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method comprising increasing availability of the at least one item entry at a predefined

price level having the more competitive price in view of the teachings of either Rosenberg or Eglen et al in order to remain competitive.

13. As per **claims 2, 12, 32, and 67**, Goodwin further discloses the method, wherein the at least one entry is modified in real time (0032).

14. As per **claims 3, 13, and 33**, Goodwin et al further discloses the method, wherein the at least one entry is modified based on recently obtained information stored in cache (0032).

15. As per **claims 4, 14, and 34**, Goodwin et al further discloses the method, wherein the at least one entry is modified based on information obtained through a batch process (fig. 3).

16. As per **claims 5, 35, and 68**, Goodwin et al failed to explicitly disclose the method, wherein at least one entry is modified by combining a price and a non-monetary incentive to produce a more competitive price.

Eglen et al discloses the method, wherein the database results are modified by combining a price and a non-monetary incentive to produce the more competitive price (0050; ....coupons tickets...).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the



method wherein the database results are modified by combining a price and a non-monetary incentive to produce the more competitive price in view of the teachings of Eglen et al in order to attract customers.

17. As per **claims 6, 16, 26, 36, and 69**, Goodwin et al further discloses the method, wherein at least one entry is modified using at least one of increasing the price, decreasing the price, and modifying the price, based on a level of service provided, to produce the more competitive price (0039; 0045).

18. As per **claims 7, 17, 37, 47, 55, and 70**, Goodwin et al and Boushy et al failed to explicitly disclose the method, wherein the database results are modified by changing the availability of a class fare to produce the more competitive price.

Eglen et al discloses the method, wherein the database results are modified by changing the availability of a class fare to produce the more competitive price (0118).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein the database results are modified by changing the availability of a class fare to produce the more competitive price in view of the teachings of Eglen et al in order to remain competitive.

19. As per **claims 8, and 38**, Goodwin et al further discloses the method, wherein at least one entry is modified by marking up the at least one entry, while maintaining a competitive price (0039).

20. As per **claims 9, 19, and 39**, Goodwin et al further discloses the method, wherein at least one entry is modified by submitting in real time a second request to a second database and receiving information to produce the more competitive price (figs. 4 and 5).

21. As per **claims 10, 20, and 40**, Goodwin et al further discloses the method, wherein the received information from the second database is based on information received with the second request (see figs. 4 and 5).

22. As per **claims 41, and 49**, Goodwin et al discloses a network node that provides information for an item capable of being sold at a plurality of different predefined price levels that each have a respective availability associated therewith, comprising:

a receiving device for receiving a request for information associated with an item (figs. 1, 4 and 5);

a database, accessible by the device, that provides results responsive to the request (fig. 1; 0034; 0044);

a rule processor that modifies at least one entry in the results to reflect a more competitive position when compared to another entry in the results (see figs. 4 and 5;

0032; 0044) comprising increasing availability of the at least one entry at a predefined price level having the more competitive price prior to providing the result to a consumer.

23. What Goodwin does not explicitly disclose is comprising increasing availability of the at least one entry at a predefined price level having the more competitive price prior to providing the result to a consumer. Goodwin however discloses that the price adjustment is based on predetermined rules and/or competitive market conditions.

24. Rosenberg et al discloses a method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price prior to providing the result to a consumer (0007, which discloses that an ever increasing supply of the commodity means that the price of that commodity will continue to decrease...). Alternatively Eglen et al discloses a method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price (0134, which discloses that the file servers 210 call increment demand servlet 3044 to increase the quantity demand for an item in the media cache 3016; 0107, which discloses that the dynamic price modifier is some measure of change in demand for one or more item being priced, ... generally the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases...)

25. Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method comprising increasing availability of the at least one item entry at a predefined price level having the more competitive price prior to providing the result to a consumer

in view of the teachings of either Rosenberg or Eglen et al in order to remain competitive.

26. As per **claims 42, and 50**, Goodwin et al further discloses the network node, wherein the rule processor modifies the at least one entry in real time (0032).

27. As per **claims 43, and 51**, Goodwin et al further discloses the network node, wherein the rule processor modifies the at least one entry based on recently obtained and stored information (0032).

28. As per **claims 44, and 52**, Goodwin et al further discloses the network node, wherein the rule processor modifies the at least one entry based on information obtained through a batch process (fig. 3).

29. As per **claims 45, and 53**, Goodwin et al failed to explicitly disclose the network node, wherein the rule processor modifies the at least one entry by combining a price and a non-monetary incentive to produce the more competitive position.

Eglen et al discloses the method, wherein the database results are modified by combining a price and a non-monetary incentive to produce the more competitive price (0145).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the

method wherein the database results are modified by combining a price and a non-monetary incentive to produce the more competitive price in view of the teachings of Eglen et al in order to attract customers.

30. As per **claims 46, and 54**, Goodwin et al further discloses the network node, wherein the rule processor modifies the at least one entry by using at least one of increasing a price, decreasing the price, and modifying the price, based on a level of service provided, to produce a more competitive position (0039; 0045).

31. As per **claims 48, and 56**, Goodwin et al further discloses the network node, wherein the rule processor is located in a second network node and modifying the at least one entry comprises submitting in real time the request to the rule processor and receiving information with the more competitive position (0039).

32. As per **claim 57**, Goodwin et al further discloses the system, wherein the means for modifying the at least one entry modifies the at least one entry by submitting in real time a second request to a second database and receiving information to produce the more competitive position (see figs. 4 and 5).

33. As per **claim 58**, Goodwin et al further discloses the system, wherein the received information from the second database is based on information received with the second request (see figs. 4 and 5).

34. As per **claim 60**, Goodwin et al further discloses the method, wherein modifying the at least one entry includes providing the at least one entry at cost to reflect a more competitive position (0039).

35. As per **claim 62**, Goodwin et al failed to explicitly disclose the method, wherein modifying the at least one entry includes providing the more competitive position for the at least one entry in exchange for a non-monetary incentive.

Eglen discloses the method, wherein modifying the at least one entry includes providing the more competitive position for the at least one entry in exchange for a non-monetary incentive (0145).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method, wherein modifying the at least one entry includes providing the more competitive position for the at least one entry in exchange for a non-monetary incentive in view of the teachings of Eglen since the claimed invention is merely a combination of old and known elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

36. As per **claims 63**, Goodwin et al further discloses the method, wherein modifying the at least one entry includes applying a set of supplier rules to the at least one entry to determine a price associated with the at least one entry (figs. 4 and 5).

37. As per **claims 64**, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes increasing the price associated with the at least one entry to match at least one of the other entries in the results (figs. 4 and 5).

38. As per **claims 65**, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes providing the more competitive position, while maintaining a minimum price for the at least one entry (see figs. 4 and 5).

39. As per **claims 66**, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes providing the more competitive position, while maintaining a premium value above at least one of the other entries in the results (see figs. 4 and 5).

40. As per **claim 71, and 72**, Goodwin et al failed to explicitly disclose a method wherein modifying the at least one entry further comprises sharing revenue derived from a sale of the at least one entry between an agent and a supplier of the item.

Goodwin however is directed to a method of managing competitive price information which are higher than competitive prices and dynamically changing or

modifying the prices to obtain a competitive pricing. The idea of airline/Agent relationship and revenue sharing is old, conventional and notoriously well known in the industry.

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein modifying the at least one entry further comprises sharing revenue derived from a sale of the at least one entry between an agent and a supplier of the item as commonly practiced in the industry.

41. As per **claim 73**, Goodwin et al further discloses the method, wherein marking up the at least one entry above the supplier provided price includes marking up the supplier provided price to be one of equal and less than other entries in the results (figs. 4 and 5; 0039).

42. As per **claims 89 and 90**, Goodwin et al failed to explicitly disclose the method wherein the database entries for the at least one item at a plurality of prices, and wherein modifying at least one entry in the database comprises making the at least one item that was previously available at the less competitive price to be available at the more competitive price

Eglen et al discloses the method wherein the database entries for the at least one item at a plurality of prices, and wherein modifying at least one entry in the database comprises making the at least one item that was previously available at the



less competitive price to be available at the more competitive price (0107, which discloses that the dynamic price modifier is some measure of change in demand for one or more item being priced, ... generally the dynamic price modifier increases the price of an item when demand for that item increases and reduces the price of an item when the demand for the item decreases...).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein the database entries for the at least one item at a plurality of prices, and wherein modifying at least one entry in the database comprises making the at least one item that was previously available at the less competitive price to be available at the more competitive price in view of the teachings of Eglen et al in order to remain competitive.

43. **Claims 21-24, 26-30, 74-82 and 84-88**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin III et al European Patent Application Publication No. EP 0 973 112 A2 in view of Rackson et al (herein after "Rackson") U.S. Patent No. 6,415,270 B1.

44. As per **claim 21 and 74**, Goodwin et al discloses a method for providing information, comprising:

receiving a request for information associated with at least one item (figs. 4 and 5; ...obtains competitive price data...);

obtaining database results from a database responsive to the request (0034; 0044; ...reads the price of the item from competitive price data file...);

modifying at least one entry in the database results to reflect a more competitive price when compared to another entry in the database results (see figs. 4 and 5; 0032; ...control software determines whether the PLU price should be adjusted for the item...) based at least partially on combining a price and a non-monetary incentive to produce the more competitive position, modifying a price based on the level of service provided to produce the more competitive position, or marking up the at least one entry while maintaining a competitive position and

providing the database results to a consumer after completing the modifying step (figs. 4 and 5; 0032; 0044).

45. What Goodwin does not explicitly disclose is based at least partially on combining a price and a non-monetary incentive to produce the more competitive position, modifying a price based on the level of service provided to produce the more competitive position, or marking up the at least one entry while maintaining a competitive position

46. Rackson discloses a method for providing information comprising:

modifying based at least partially on combining a price and a non-monetary incentive to produce the more competitive position (col. 12, line 45-col. 13, line 35; col. 16, lines 2-25), modifying a price based on the level of service provided to produce the more competitive position, or marking up the at least one entry while maintaining a competitive position (col. 12, line 45-col. 13, line 35; col. 16, lines 2-25).

47. Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method of modifying based at least partially on combining a price and a non-monetary incentive to produce the more competitive position, modifying a price based on the level of service provided to produce the more competitive position, or marking up the at least one entry while maintaining a competitive position in view of the teachings of Rackson since the claimed invention is merely a combination of old and known elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

48. As per **claims 22, and 82**, Goodwin further discloses the method, wherein the at least one entry is modified in real time (0032).

49. As per **claim 23**, Goodwin et al further discloses the method, wherein the at least one entry is modified based on recently obtained information stored in cache (0032).

50. As per **claim 24**, Goodwin et al further discloses the method, wherein the at least one entry is modified based on information obtained through a batch process (fig. 3).

51. As per **claims 27, and 85**, Goodwin et al and Boushy et al failed to explicitly disclose the method, wherein the database results are modified by changing the availability of a class fare to produce the more competitive price.

Rackson discloses the method, wherein the database results are modified by changing the availability of a class fare to produce the more competitive price (col. 4, lines 20-40).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein the database results are modified by changing the availability of a class fare to produce the more competitive price in view of the teachings of Rackson in order to remain competitive.

52. As per **claim 84**, Goodwin et al further discloses the method, wherein at least one entry is modified using at least one of increasing the price, decreasing the price, and modifying the price, based on a level of service provided, to produce the more competitive price (0039; 0045).

53. As per **claim 29**, Goodwin et al further discloses the method, wherein at least one entry is modified by submitting in real time a second request to a second database and receiving information to produce the more competitive price (figs. 4 and 5).

54. As per **claim 30**, Goodwin et al further discloses the method, wherein the received information from the second database is based on information received with the second request (see figs. 4 and 5).

55. As per **claim 75**, Goodwin et al further discloses the method, wherein modifying the at least one entry includes providing the at least one entry at cost to reflect a more competitive position (0039).

56. As per **claims 76, 86 and 87**, Goodwin et al failed to explicitly disclose a method wherein modifying the at least one entry further comprises sharing revenue derived from a sale of the at least one entry between an agent and a supplier of the item.

Goodwin however is directed to a method of managing competitive price information which are higher than competitive prices and dynamically changing or modifying the prices to obtain a competitive pricing. The idea of airline/Agent relationship and revenue sharing is old, conventional and notoriously well known in the industry.

Rackson however discloses a method wherein modifying the at least one entry further comprises sharing revenue derived from a sale of the at least one entry between an agent and a supplier of the item (col. 17, lines 30-55).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method wherein modifying the at least one entry further comprises sharing revenue

derived from a sale of the at least one entry between an agent and a supplier of the item in view of the teachings of Rackson since the claimed invention is merely a combination of old and known elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

57. As per **claim 77**, Goodwin et al failed to explicitly disclose the method, wherein modifying the at least one entry includes providing the more competitive position for the at least one entry in exchange for a non-monetary incentive.

Rackson discloses the method, wherein modifying the at least one entry includes providing the more competitive position for the at least one entry in exchange for a non-monetary incentive (col. 12, line 45-col. 13, line 35; col. 16, lines 2-25).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Goodwin et al and incorporate the method, wherein modifying the at least one entry includes providing the more competitive position for the at least one entry in exchange for a non-monetary incentive in view of the teachings of Rackson since the claimed invention is merely a combination of old and known elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

58. As per **claim 78**, Goodwin et al further discloses the method, wherein modifying the at least one entry includes applying a set of supplier rules to the at least one entry to determine a price associated with the at least one entry (figs. 4 and 5).

59. As per **claim 79**, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes increasing the price associated with the at least one entry to match at least one of the other entries in the results (figs. 4 and 5).

60. As per **claim 80**, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes providing the more competitive position, while maintaining a minimum price for the at least one entry (see figs. 4 and 5).

61. As per **claim 81**, Goodwin et al further discloses the method, wherein applying the set of supplier rules includes providing the more competitive position, while maintaining a premium value above at least one of the other entries in the results (see figs. 4 and 5).

62. As per **claim 88**, Goodwin et al further discloses the network node, wherein the means for modifying the at least one entry marks up the at least one entry by increasing the supplier provided price to be one of equal and less than other entries in the results (0039).

### ***Conclusion***

63. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on **(571) 272 – 6709**.

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/Charlie C Agwumezie/  
Examiner, Art Unit 3621  
July 23, 2008

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